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Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	GC Docket No. 92-52
)	
Reexamination of the Policy)	
Statement on Comparative)	
Broadcast Hearings)	
)	
)	RM-7739
)	RM-7740
)	RM-7741

To: The Commission

COMMENTS OF HERRIN BROADCASTING, INC.

Herrin Broadcasting, Inc. ("HBI"), by its counsel, submits the following comments in support of the Commission's tentative proposal to award a finder's preference in comparative broadcast hearings to applicants whose efforts led to allotment of the channel being applied for. Notice of Proposed Rulemaking, FCC 92-98, released April 10, 1992, para. 29 ("NPR").

1. HBI is an applicant for a new Class A FM station on Channel 274A, Lake Ozark, Missouri (File No. 920501MB). The Commission allocated Channel 274A to Lake Ozark as a result of HBI's counterproposal in MM Docket No. 89-120 (RM-6701, 6999 et seq.). See, Report and Order, DA 92-170, released February 20, 1992, para. 7 (MMB). Thus, if a finder's preference is adopted

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for comparative hearings, as the Commission has tentatively proposed, HBI would qualify for the preference.

2. HBI's effort to secure the allocation of an FM channel for the community of Lake Ozark is a strong case study in why a finder's preference should be awarded in comparative hearings. Lake Ozark currently has no local broadcast service. Barbara and Norris Reichel, the owners of HBI, who have a residence in the Lake of the Ozarks, wanted to bring Lake Ozark its first local service and start their own radio station there. To make that possible, they went to great effort and expense to find a channel that could be allotted to Lake Ozark and to demonstrate to the Commission that an allotment to Lake Ozark would serve the public interest better than would alternatives being proposed by others. Altogether, HBI spent several thousand dollars in engineering and legal costs on this effort. The result is that Lake Ozark is now eligible for its first local broadcast service, and HBI is solely responsible for bringing that benefit to the community.

3. Applicants who undertake such effort and expense to create an undeniable public interest benefit should be rewarded with a finder's preference in comparative hearings. Such a preference will provide an important incentive to persons interested in launching new broadcast services in unserved or underserved communities. As matters now stand, the prospect of ultimately losing to a competing applicant in a comparative

hearing is a disincentive to bearing the cost of initiating a rulemaking. If this disincentive is removed by awarding a finder's preference, a real benefit will be realized by many communities that otherwise would not likely gain local broadcast service.

4. Because the finder's preference relates to a very fundamental public interest benefit, the allocation of service to a community under Section 307(b), the finder's preference should be weighted at least equally with the preferences given for diversification, minority ownership, local residence, and the like.

5. There is no merit to the argument that minorities, who receive a minority preference in comparative hearings, would be disadvantaged if the Commission adopts a finder's preference as well. Minorities would be no less eligible for the finder's preference than anyone else. Indeed, a minority applicant who also qualified for the finder's preference would have an exceedingly strong chance of prevailing over all competitors. Moreover, most comparative hearings today come down to a choice among minority applicants, who tend to be the leading contenders. In such cases, a finder's preference, more likely than not, will simply resolve which of the minority applicants wins. But the essential point is that the finder's preference is available for anybody, minorities and non-minorities alike, to secure through the exercise of initiative in the public

interest. That being so, the finder's preference is a good policy that prejudices nobody.

6. For all of these reasons, HBI strongly urges to Commission to adopt a finder's preference equal in weight to any other preference awarded in comparative hearings.

Respectfully submitted,

HERRIN BROADCASTING, INC.

By: Nathaniel F. Emmons
Nathaniel F. Emmons
Howard A. Topel

Mullin, Rhyne, Emmons and Topel, P.C.
1000 Connecticut Avenue--Suite 500
Washington, D.C. 20036
(202) 659-4700

Its Counsel

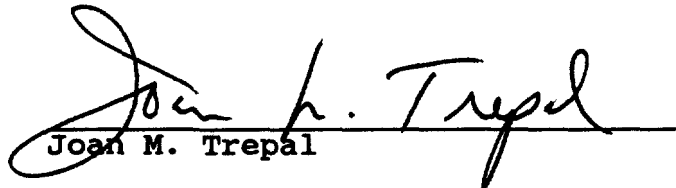
June 2, 1992

CERTIFICATE OF SERVICE

I, Joan M. Trepal, a secretary in the law firm of Mullin, Rhyne, Emmons and Topel, P.C., do hereby certify that a copy of the foregoing "Comments of Herrin Broadcasting, Inc." has been mailed this 2nd day of June, 1992, to the following:

* Office of General Counsel
Federal Communications Commission
1919 M Street, N.W.--Room 614
Washington, D.C. 20554

Richard R. Zaragoza, Esq.
Fisher, Wayland, Cooper & Leader
1255 23rd Street, N.W.--Room 800
Washington, D.C. 20037
Counsel for RBM Broadcasting, Inc.


Joan M. Trepal

* Hand Delivered.